Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO. 471 /2009

PETITIONER : Gyanesh Sharma, S/o. Late P.S. Sharma, aged about 41 years, R/o. Ajad Chowk, Brahmanpara, Raipur (C.G.)

VERSUS

RESPONDENTS : 1) The State Election Commission, Chhattisgarh Near D.K.S Bhawan Raipur.

2) The Returning Officer for Municipalities Election, Raipur, The Collectorate Office, Raipur (C.G.)

3) The State of Chhattisgarh, Through Secretary G.A.D. Department, D.K.S. Bhawan Raipur (C.G.)

P.R. No. 4772/09
Presented by Shri S.N. Sharma
dated 06-12

PETITION UNDER ARTICLE 226 & 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS, DIRECTIONS

(28)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 4711/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

08.12.2004

Shri S.C.Verma, counsel for the petitioner.

Shri Pramod Kumar Verma, Additional Advocate General for respondents No.1 & 2.

Shri Dasarath Gupta, Government Advocate for respondent No.3/State.

Heard on I.A.No.9360/2004 for exempting the petitioner from filing typed copy of the slightly fainted/hand written documents, for which counsel for respondents have no objection.

Considered. I.A. allowed.

Also heard on admission and M.(W.)P.No.4999/2004.

Petitioner is contesting Municipal Corporation election Raipur for the post of Corporator from ward No.58 Brahmanpara. On 2nd December 2004 the Returning Officer Raipur allotted him a symbol of "Nav" (boat) for this election. But subsequently on 4th December 2004 Returning Officer changed the symbol and in place of "Nav" (boat), the petitioner has been allotted "Hut". Aggrieved with this allotment petitioner has filed this petition with a request to stay the election.

Chhattisgarh Nagar Palika Nirvachan Niyam 1994 in Sub clause 4 of rule 31 specifically provides that the allotment by Returning Officer of any symbol to a candidate shall be final except where it is

Gr. PRJ—FS/350—12/2000—50,000.

(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 4711/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

inconsistent with any direction issued by the Election Commission in this behalf, in which case the Election Commission may revise the allotment in such manner as it deems fit. From the document filed by the petitioner himself, it is clear that in allotment of "Nav" (boat) to the petitioner, the Returning Officer committed some error. Therefore, to correct the same, he sought permission from the State Election Commission, who vide their letter dated 04.12.2004 permitted the Returning Officer to change the symbol and accordingly, the change has been made.

It is an admitted position that the symbol of "Nav"(boat), which was allotted to the petitioner earlier, has not been allotted to any one. Therefore, subsequently, in place of boat the allotment of hut made by the Returning Officer does not call for interference on the ground that substantial loss has been caused to the petitioner who has spent money on publicity after obtaining the symbol boat.

Petitioner has relied on **Dev Raj Vs State of Maharashtra & others reported in 2004** AIR SCW 213. But this case law is distinguishable on the facts of the present case.

The petition filed by the petitioner deserves to be dismissed summarily and is accordingly dismissed.

GLPRJ—FS/350—12/2000—50,000.

(30)

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक WP No. 4711/04 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
padma	Consequently, M.(W.)P.No. 4999/2004 for Ad-interim relief and I.A.No9359/2004 for urgent hearing stand disposed of. Sd//- V.K.Shrivastava Judge	